?BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
%DATED: 18.03.2019
*CORAM
THE HONOURABLE MRS. JUSTICE T.KRISHNAVALLI

+Crl.RC(MD)No.101 of 2019

#Manickam
... Petitioner/Petitioner

Vs.

$The State Rep by
The Inspector of Police,
Ariyamangalam Police Station,
Trichy District. ... Respondent/Complainant

Prayer : This Criminal Revision has been filed under Section 397 r/w 401 of Criminal Procedure Code, to set aside the order dated 21.02.2019 made in Cr.M.P.No.2048 of 2019 on the file of the learned Judicial Magistrate No.VI, Trichy and allow the above revision petition.

!For Revision Petitioner: Mr.S.Sathya Chidambaram

^For Respondent : Mr.A.Robinson
Government Advocate (Crl.Side)

:ORDER

The petitioner claims to be the owner of the vehicle (Lorry) bearing Registration No.TN~47~AB~4588. On 20.08.2018, the respondent police found the said vehicle carrying sand in violation of the provision of the Mines and Minerals Development Regulation Act, 1957. The respondent registered a case in Crime No.285 of 2017 under Sections 379 IPC., & 21(1) of Mines and Minerals Development Regulations Act, 1957, and seized the said vehicle. Seeking return of the said vehicle, the petitioner filed a petition before the learned Judicial Magistrate No.VI, Trichy, for interim custody. The learned Magistrate, by order dated 21.02.2019, has dismissed the same. Challenging the said order, the petitioner is before this Court with this petition.

2.Heard the learned counsel appearing on either side and perused the materials available on record.

3.Mr.A.Robinson, learned Government Advocate (Crl.side) has strongly objection to release the vehicle.

4.The only ground upon which the lower court has dismissed the petition is that already confiscation proceeding had been initiated under Section 21(1) of the Mines and Minerals Development Regulations Act, 1957, as against the vehicle in question. According to the lower Court, since such proceeding

was pending, the petition for interim custody of the vehicle is not maintainable. The view taken by the learned Magistrate is not correct. It is well settled that during the pendency of confiscation proceeding, the vehicle needs to be returned to the person, who is entitled to have. The return will have no impact on the confiscation proceeding, as the confiscation proceeding is an independent proceeding.

5.In view of the above, this revision is allowed and the order of the learned Judicial Magistrate No.VI, Trichy in Crl.M.P.No.2048/2019 is set aside and the learned Magistrate is directed to return the vehicle subject to the confiscation proceedings to the petitioner on the following conditions:~

(a) The petitioner shall deposit the original Registration Certificate of the vehicle;
(b) The petitioner shall deposit a sum of Rs.65,000/~ (Rupees Sixty Five thousand only) to the credit of Crime No.285 of 2017 on the file of the Judicial Magistrate No.VI, Trichy, within a period of one week from the date of receipt of a copy of this order;
(c) The petitioner shall not make any alteration of the vehicle;
(d) The petitioner shall produce the same before the Court as an when required, until final order is passed in the confiscation proceedings.

6.The authority under the Mines and Minerals Development Regulations Act, 1957 may proceed with the confiscation proceedings and the petitioner shall obey any order that may be passed in the said proceeding by the authority.

ToTo

1.The Judicial Magistrate No.VI,
Trichy.

2.The Inspector of Police,
Ariyamangalam Police Station,
Trichy District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.